

NHS Education for Scotland

Hospitality Policy

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1. Introduction

The NES Hospitality Policy is intended to provide guidance to all NES staff on the receiving of gifts and/or hospitality and to establish guidance with regard to the NES Register of Gifts, Hospitality and Interests

2. Legal Framework and National NHS Guidance

2.1 *The Bribery Act (2010)*

The Bribery Act received Royal Assent in April 2010 and came into force on 1st July 2011. It reforms the criminal law of bribery, making it easier to tackle this offence proactively in the public and private sectors. The Act repeals the UK's existing anti-corruption legislation – the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts 1906 and 1916 and the common law offence of bribery – and provides an updated and extended framework of offences to cover bribery both in the UK and abroad.

The Bribery Act creates the offences of “active” and “passive” bribery and also makes it possible for organisations to be prosecuted for bribery:

- ❖ **Active Bribery:** This offence involves the offering, promising or giving of a financial or other advantage where the initiator intends the advantage to bring about the improper performance by another person of a relevant function or activity, or intends that the advantage will reward such improper activity.
- ❖ **Passive Bribery:** This offence involves the requesting, agreeing to receive or accepting of a financial or other advantage by an individual in return for improper performance.
- ❖ **Failure of a commercial organisation to prevent bribery:** A commercial organisation is liable to prosecution if a person associated with it bribes another person intending to obtain or retain business or an advantage in the conduct of that organisation.

2.2 *Implications of the Bribery Act for NES*

As a result of the offences created under the Bribery Act 2010, NES would be liable for prosecution if a member of staff or a person associated with the organisation engages in bribery in order to obtain or retain business on behalf of NES.

Accordingly, all employees must be aware of what constitutes an act of bribery and must ensure that their actions are honest, impartial and transparent. Employees with concerns regarding the conduct of others have a responsibility to raise these through their line manager or via the mechanisms defined in the Freedom of Speech within NES Policy. All issues will be treated seriously and a full and comprehensive investigation will be carried out as per the NES Disciplinary Policy and Procedures.

2.3 National NHS Guidance on Standards of Business Conduct

NHS Circular MEL (1994) 48 set out the requirements for Standards of Business Conduct for NHS staff and the content of this circular is reflected in the current NES Standards of Business Conduct Policy. More recently NHS Circular HDL (2003) 62 provided guidance on joint working between NHS Scotland and the Pharmaceutical Industry, which required Health Boards to establish a central Register of Hospitality and Interests for staff.

NHS guidance also sets out that it is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties. This applies to both staff who commit resources directly eg the ordering of goods or services or indirectly by policy development.

3. Scope of the Hospitality Policy

The provisions of the policy shall be held to apply to all employees, secondees and associates of NES. There is no seniority threshold.

4. Acceptable Hospitality

Hospitality is generally defined as attendance at a social or leisure event or conference (or an occasion which could be perceived as such an event) where the attendance is being funded by a third party. NHS guidance provides that modest hospitality is an accepted courtesy of a business relationship. However, the recipient should not allow themselves to reach a position whereby he or she might be deemed by others to have been influenced in making a business decisions as a consequence of accepting such hospitality. The frequency and scale of hospitality accepted should not be significantly greater than NES would be likely to provide in return.

Staff may accept modest hospitality, provided it is normal and reasonable under the circumstances eg lunches in the course of working visits may be acceptable if of a similar scale to that which the NES would offer in return, the acceptable limit for a meal is £25. NES does not reimburse the cost of alcohol. Staff should decline all other offers of hospitality. Any and all hospitality accepted by NES employees must be declared to their line manager.

5. Unacceptable Hospitality

Any hospitality which does not fill the above criteria will be unacceptable. The only exception is where the hospitality has been approved in writing, in advance, by the Chief Executive or appropriate Director. Such hospitality must be declared on the Submission Form at Appendix A.

Any significant hospitality offered to NES employees and declined should also be recorded in the register.

6. Commercial Sponsorship

As a general principle, all offers of hospitality received from commercial third parties should be refused. Attendance at relevant commercially sponsored conferences and courses is acceptable but only where acceptance will not and cannot be seen as compromising purchasing or other decision in any way. Receipt or provision of such sponsorship should be recorded in the Register.

Employees should pay particular attention to the circumstances in which hospitality is offered; the provision of hospitality by an individual or organisation during a tendering process or where a contract is shortly to end, or where performance of the contract is in question or in any other circumstances where acceptance might compromise the position of the employee or of NES, is not acceptable.

7. Acceptance of Gifts

Employees of NES should not accept gifts which may be or be capable of being construed as being able to influence a purchasing decision or cast doubt on the integrity of such decisions. Gifts which could place an individual in a position of conflict between their private interests and their NHS duties should be politely but firmly declined. Casual gifts offered by contractors or others should also be politely declined except where they are of low intrinsic value. MEL 1994 (48) provides that staff may accept such gifts of low intrinsic value or small tokens of gratitude (such as diaries or calendars). This code deems the acceptable limit is £20. NHS guidance provides that any gifts of higher value offered or received should be declined. Where it is difficult to decide whether a gift should be accepted or not, advice should be sought from your line manager. Gifts that are declined should be recorded in the register.

In exceptional circumstances, such as a public presentation, where refusal of a gift over the acceptable limit would be difficult, employees must declare the gift on the attached form within 7 days of receipt.

8. Monetary Gifts

The acceptance or giving of monetary gifts is not acceptable under any circumstances.

9. Register of Hospitality and Interests – Procedures for Submission

The information required for the Register of Gifts, Hospitality and Interests is set out on the Submission Form (Appendix A), which is available on the intranet. Submissions should be made as soon as is practically possible.

10. Responsibilities

10.1 Chief Executive

It is the responsibility of the Chief Executive as Accountable Officer to ensure the register of Hospitality and Interests is maintained

10.2 Director of Finance and Corporate Resources

The Director of Finance and Corporate Resources is responsible for the monitoring and scrutiny of the register in line with Standing Financial Instructions and to be vigilant for perceived conflicts of interest. The register will be reviewed annually by Internal Audit (as arranged by the Director of Finance and Corporate Resources) and will be available to the External Auditors

10.3 Director of Human Resources & Organisational Development

The Director of Workforce will be responsible for investigating where an individual is suspected to have behaved improperly; this is a staff governance issue

10.4 Depute Director of Human Resources & Organisational Development

The Depute Director of HR & OD is responsible for establishment of the register and that it is kept up to date, in line with the cyclical pattern of NES business.

However, the responsibility for submitting information lies with the individual member of staff.

10.5 Line Managers

Line managers must adhere strictly to the code and ensure that staff they manage are aware of and comply with the provisions of the Hospitality Policy and the related Standards of Business Conduct for Staff.

10.6 All Employees

Each NES employee has a personal responsibility to accept only gifts/hospitality as deemed acceptable in this policy.

Employees are reminded that the restriction on acceptance of gifts and hospitality is included in their contract of employment, and that failure to comply with this requirement may lead to disciplinary action.

Staff must also be aware that a breach of the provisions under legislation may make them liable to individual prosecution and may also lead to loss of employment and pension rights.

If employees have any doubt about whether an item should or should not be recorded, they are advised to record it and to retain a copy of the entry for future reference. The importance of this cannot be overstated to protect individuals from allegations in the future.

11. Related Policies

Further related information can be found in the following NES policies on the intranet;

- ❖ NES Fraud and Corruption Policy
- ❖ NES Fraud Action Plan
- ❖ NES Standing Financial Instructions
- ❖ Freedom of Speech within NES Policy (Whistleblowing Policy)
- ❖ NES Disciplinary Policy and Procedures
- ❖ NES Grievance Policy
- ❖ NES Anti-Bribery Statement

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Appendix A

DECLARATION OF GIFTS, HOSPITALITY & INTERESTS

You should use this form to declare gifts or hospitality, which have been accepted (exceptional circumstances only), or declined.

You must also use this form to declare any commercial interests.

The completed form should be countersigned by your line manager and passed to the Depute Director of HR & OD, where it will be filed on the NES Register of Hospitality and Interests and will be periodically scrutinised by auditors. The register may also be viewed by members of the public and/or interested organisations on request.

Name	
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I disclose that on _____ (date) I accepted/declined the following gift/hospitality (delete as appropriate):

Details:	
Estimated Value:	
From: (Name of organisation offering gift/hospitality)	
Exceptional Circumstances (Please describe)	
Any other organisation involved:	

Or

I wish to declare the following commercial interest: _____

Signed: _____ Date: _____

Name: _____ Job Title: _____
(Block Capitals)

Countersigned: _____ Date: _____

Name: _____ Job Title: _____
(Block Capitals)